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Freedom on university campuses: an argument for normatively dependent toleration

Abstract

In the context of longstanding debates about the meaning of toleration and current significant disagreements within society, we offer a discussion about several key areas of debate and sketch broadly some responses in higher education. Following contextual remarks about key philosophical perspectives and reference to particular disputes within society, generally in society and particularly on university campuses, about free speech relating to terrorism and 'lad culture', we draw attention to issues about toleration. Those are: relationship with self; the public private interface; levels or degrees of toleration regarding action; and, the limits to toleration. We then develop more precisely framed connections for a particular characterisation of toleration within HE.

Key words: freedom; university campuses; toleration

Introduction

We argue that there are significant challenges on higher education (HE) campuses in the UK arising from uncertainty over freedom of expression and action. These problems have occurred, for example, in debates over terrorism (especially relevant to Prevent and Fundamental British Values) and in abusive actions in so-called 'lad culture' (Phipps and Young 2015). These challenges indicate the ways in which we think about freedom and go to the heart of how we characterise a good society. Discussion of these matters illuminate what should be the nature and purpose of higher education. The connections with citizenship education are clear in that freedom and limits to thought and action connect with education about power and for justice.

We argue that there is a need to enhance understanding of - and to take action that is congruent with - a normatively dependent characterisation of toleration (Forst 2012; Waghid and Davids 2017). We argue that there are, very generally, two unhelpful responses to challenging issues: some advocates currently suggest simplistic, precisely and concretely framed conservative acts of moral certainty; others suggest that as students in HE are adults and voluntarily engaged, then deliberate or explicit

action may not be necessary. We argue that both these approaches would be counter-productive for those who wish to defend the university as a public space for democratic deliberation.

Toleration involves “the recognition of distinct and diverse perspectives” (Waghid and Davids 2017: 2). This is not an approach of ‘anything goes’. Clearly, we are not defending unacceptable behaviour and we recognize that action against perpetrators and in support of victims is necessary. Our position is that an educational approach to challenging circumstances is preferable to simplistic moralising or libertarianism. We argue that enhancing our understanding of and action for toleration has the potential to promote truthfulness that is characterized by reasonableness in thought and action. We argue that clearer identification of toleration involves four aspects: its relationship with self; the public private interface; levels or degrees of toleration regarding action; and, the limits to toleration. We then develop more precisely framed connections for a particular characterisation of toleration within HE. Our main purpose is not to develop a new theory of toleration – that is obviously beyond the scope of this article. Rather, we wish to highlight key issues that should be considered by educators in higher education and sketch generally ways in which those considerations can be developed.

Background

There is a very wide range of material that is potentially relevant to this article. We are, broadly, concerned with the limits that may be applied to thoughts and actions on university campuses. While not developing a fully developed philosophical position, we wish, as background, to indicate some of our thinking in relation to the perspectives that have been offered relevant to the matter of identifying limits to acceptable behaviour. We see those limits as having been characterized through very different philosophical positions. We do not subscribe to a Benthamite utilitarianism in which the greatest happiness of the greatest number of people is primary (Hart, 1982). We are reluctant to accept that we do not need greater attention than offered through a Benthamite perspective to principles of justice. Matters of calculation regarding societal organisation is an inadequate shorthand of representing the work of Bentham but our point is that a principle of justice is needed. And commitment to principle allows us to avoid a failure to judge the qualitative differences between

positions offered by those who disagree. We recognize, positively, the influential nature of Rawls' work (1971/1999) in which: "The choice which rational men [sic] would make in [a] hypothetical situation of equal liberty, assuming for the present that this choice problem has a solution determines the principles of justice" (p. 11). However, we feel hesitant about Rawls' point (in the positive sense indicated by Habermas (1995) when discussing Rawl's work through a "familial dispute", p.110), given the impossible or unlikely event of equal liberty, its practicality. We make that argument even given the guidance to achieve tolerant responses given through precise examples by Rawls (see 1971/1999 pp.186-194). We are, in the development of the argument that follows, attracted to the work of Sandel (2010) in that we see justice and thus toleration as essentially a matter of judgment:

A just society can't be achieved simply by maximizing utility or by securing freedom of choice. To achieve a just society we have to reason together about the meaning of the good life and to create a public culture hospitable to the disagreements that will inevitably arise

In our commitment to understand and derive educational value from disagreement (Ranciere1999) we are commitment to exploring and defending toleration. The longstanding nature of the challenges about toleration makes it imperative that we consider how to act in ways that allow us to engage in and evaluate civilizing discourses (Bejan, 2017).

We referred above to the specific examples of terrorism and 'lad culture'. We have chosen these examples of challenges currently experienced on HE campuses as they have potential to illuminate a range of public and private political perspectives. Although these things are limited in this article to the function of examples, they do need some outline of their meaning. Terrorism is hard to define (Home Department 2007) but essentially is connected to "action taken for the benefit of a proscribed organisation" (p.6). In the UK there are heightened security concerns with several high profile attacks including in 2017 alone a van and knife attack on Westminster Bridge in March (BBC 2017a); a suicide bomb at the Manchester Arena in May (BBC 2017b); a van and knife attack on London Bridge in June (BBC 2017c) and Borough

Market; and a van attack at the Finsbury Park Mosque also in June (BBC 2017d). Perhaps one of the main responses to the security crisis has been the Prevent Strategy that was made a legal duty for the public sector in 2015 (Qurashi 2018; Department for Education 2015). This was followed by the Counter-Terrorism and Security Act of 2015 (Home Office 2015). There is now a duty to pay due regard to the need to prevent people from being drawn into terrorism. Monitoring, preventing and reporting are essential elements of this strategy. There are fast moving developments in this field with criticisms having been made of these policies (e.g., House of Lords, 2018; Kyriacou et al. 2017; Abbas and Awan 2015). In response to the growing feeling that Prevent is counter-productive, the Security Minister, Ben Wallace, announced on 22 January 2019 that there will be an independent review of Prevent (Home Office 2019). It is possible that there are few restrictions being imposed on campuses (Schraer and Butcher, 2018) but there is something of a media frenzy around free speech on campuses including allegations that democracy is being undermined (e.g., Slater 2018).

It would be inappropriate to suggest that allegations of terrorist related activity is somehow 'public' while 'lad culture' is 'personal', and yet by illustrating these contexts we are indicating our view that the challenges to thinking and action on HE campuses involve a wide range of contexts. Jackson and Sundaram (n.d) have suggested that 'lad culture' is used to indicate abusive behaviour and emerges:

as a 'pack' mentality evident in activities such as sport and heavy alcohol consumption, and 'banter' often sexist, misogynist and homophobic. It ... [is] also thought to be sexualized and to involve the objectification of women, and at its extremes rape supportive attitudes and sexual harassment and violence

The problems associated with lad culture connect with fundamental societal concerns about sex and relationships. Murray (2012), for example, refers to very many aspects of societal breakdown in the US connecting much of the widespread social malaise with sex and relationships. In the UK, Blond (2010) gives a similar list of significant problems and makes similar connections. It is perhaps unsurprising that sex and

relationships give rise to such concern. Those matters are an expression of the essence of our fundamental individual and group identities and connect with very many vitally important and contested aspects of societal norms. The links between sex and relationships and religion are obvious with varying general guidance provided by different faiths as well as specific faith-based community rules about marriage, abortion, the age of consent and other matters. There are contested debates about the role of sex and relationships regarding emotional fulfilment and bodily pleasure with assertions that, should we be able to get things ‘right’, then we will have a stable society and a healthy economy. The stakes across society for individuals and groups could not be higher. There is significant concern about abusive behaviour on HE campuses (e.g., Phipps and Young 2013, 2015).

This has, in part, led to an increasing amount of official attention and support for character education. The House of Commons Education Committee (2015, p.31) has noted that:

.... the DfE announced a £5m fund to support eight projects that develop pupils’ character, self-confidence, respect and leadership by promoting a “military ethos”, and a £425,000 “Character Awards” prize fund for 28 schools who promote innovative character education. Subsequently the DfE announced it was providing £1m for research into resilience and a £3.5m fund for projects for schools to develop character education projects “to make England a ‘global leader’ in teaching character, resilience and grit”. The total funding for all these projects together stands at almost £10m.

Some of the leading figures in character education have written at length about the connections between their view of a good education and the need for a particular approach to sex and relationships education regarding “managing the moral environment” (Lickona 2004).

Beyond the examples given above, there is generally a highly contested situation with some arguing that no action is needed in HE (Carr, 2017). Legislation has according to some been counter-productive. Character education which is associated with

teaching and learning about the limits to acceptable thought and action is contested (Davies, Gorard and McGuinn 2005; Kristjánsson 2013). There are perceptions relevant to toleration that character education's highly individualised nature and its support for the status quo in the targeting of pre-determined and concretely expressed goals.

An attempt to find a way through these debates has recently been made (Equality and Human Rights Commission, 2019). We feel that this approach is likely to be unsuccessful. Recently issued guidelines for HE develop an approach which is useful insofar as the legal position is described, broad guidelines offered, and examples of unacceptable behaviour and possible responses are given. The deep seated problems of which terrorism related activities and lad culture are examples require more fundamental consideration. We propose that toleration is the key concept involved in the development of that thinking and action and develop our argument through a reliance on the work of some of the key philosophers of education working in this field (Waghid and Davids, 2017). We suggest that there are four areas regarding toleration that require consideration. We then develop an initial outline of what we would regard as appropriate educational action.

Characterizations of toleration

- A sense of self

Waghid and Davids (2017, p. 2) have argued that “tolerance is an articulation of both the uncertainty and inadequacies of the self”. We argue that this allows for a positive recognition of the unfinished nature of the self which we hope would lead to commitment to enhanced understanding. The absence of dogma and bigotry are the keys to toleration. A confidently reflective stance allows for an intra and inter-sensitivity which is an essential aspect of empathy. This seemingly obvious point needs to be argued in the face of those who would suggest either that there is no need for any explicit attention to what society deems to be acceptable and unacceptable, or that it is necessary only to generate simplistic messages that indicate the need for restriction. The knowing of the uncertain and imperfect self requires a reflective and empathetic approach which is at the heart of toleration and we suggest likely to lead

to greater reasonableness. This argument is influenced by the increasing recognition of identity and emotion in educational settings (Zembylas and Schutz 2016). From emotional responses by staff to an emphasis on impact in research (Chubb, Watermeyer and Wakeling, 2017) to the role of the cognitive and affective in learning (which relate to grand theories of the giants of the field including Piaget, Bloom and Gardner to small scale empirical work e.g., Shephard 2008; Rodriquez, Plax and Kearney 1996) the issue of self is vital.

- The public private interface

Many of the challenges currently faced on HE campuses arising from issues about freedom of expression and action relate to the complexities of identifying the boundaries between the public and private. Many relationships are necessarily private and personal, but their expression has a significant public nature and very important professional, institutional and other implications and consequences. The boundaries between public and private are often blurred. If we are to understand and respond appropriately to challenging issues on campuses then the characterization of toleration in relation to those boundaries of the private and public are essential. However, we too often see either a call for inaction as these matters are seen as private or a call for what we would regard as inappropriate action because it is asserted that they are of public concern.

The difficulty of characterizing the public and private may be seen generally in relation to discussions about the nature of education and how it is expressed institutionally (Day Ashley 2013; Boyask 2013). More particularly, educators are aware of the potentially serious problems that may occur if they fail to act appropriately in the context of their professional boundaries. Many illustrations could be given as teachers and other education professionals develop a nuanced position in relation to their identity and actions. This can concern whether, for example, they express their own views on a contested topic, how they act in public spaces during leisure time, or how they engage with students in person and through social media. Students, too, have to navigate transitions between the private and public space, for example with regard to attendance, class participation and ‘performed’ learning (Macfarlane 2014).

There are also more obviously institutionally based aspects to this matter of the personal-public interface. The nature of the aims and purposes of HE is varied. Carr has argued that there are three models:

First, the German or Humboltian model regards the pursuit of knowledge and understanding for its own intrinsic value – apart from any practical, instrumental or utilitarian purposes that such knowledge might be thought to serve – and is so primarily focused on pure research. Secondly, the French or Napoleonic model emphasizes more the professional, vocational and practical contribution to the public good of higher academic or other study. Thirdly, however, a more English model – following Cardinal Newman (1976) and others – emphasizes the liberal educational role in the personal formation of learners as individual moral agents or prospective professional practitioners (Carr 2017, p. 114).

Carr's models may lead to different practical proposals. And there may be other models for HE, including, perhaps, seeing the university not exclusively as an educational institution but as a business in its own right. If we are to see universities as businesses and students as customers then it is unlikely that regulation may be applied following individual acts. Or, it may be the case that any regulation which does occur is artificially and mechanistically applied to a limited aspect of university life (e.g., rules about acceptable conduct in accommodation areas rather than the development of an overarching strategy). We suggest that there should be consideration and elaboration of the nature of the public private interface in HE involving institutional purpose; professionalism; the delineation of areas where staff and students have public responsibility; and if issues such as religion or sex and relationships are addressed explicitly in learning situations then how might that be done. Throughout all of these areas the concept of toleration is relevant.

- The levels of toleration

In order to develop our argument about the need for toleration it is necessary to consider levels that apply to it. This is essentially about whether institutions and the

individual staff and students who work within them should develop ‘right’ answers or no answers. We need to know what we might consider as a sophisticated response.-As above, we argue that approaches that deny the appropriateness of action or insist on particular forms of action are both unhelpful. There are many who assert the need for a firm response. For example, some recent school-based research is based on the premise that right answers as given by experts must be given by students:

On average, participating students had less than a 50% match (42.6%) with the preferred responses to the moral dilemmas as selected by an expert panel. (Arthur et al 2015, p.2)

Both a simple directive approach and a determination not to restrict are responses that do not recognise the complex nature of toleration. Forst (2012) argues that to assert that one is tolerant is not quite enough as this could mean different things: permission, co-existence, respect, esteem. And the nature of action itself requires elaboration. There is developing work on bystander research in the US and elsewhere (US Department of Justice 2014; Fenton, Mott and Rumney 2015). The reactions by people not directly and immediately involved are significant given that their decision not to intervene is in itself an act; and, of course, actions may take a number of forms including those which do not principally take the form of physical intervention. Social actions in the public sphere are typically performed through language, and here the choice and use of language is extremely important (Butler 1997). The debates regarding free speech in universities are longstanding, and it is common for guidelines to be issued to guide students and staff which in part recognize the legal ramifications of certain sorts of language use. A social contract is formed through language, and the choice to use certain words and phrases in particular ways is directly relevant to our consideration of toleration and action.

- The limits to toleration including the potential for paradox

Some authors have approached toleration and the limits to it by suggesting the potential for paradox. We are certainly not suggesting that we should tolerate or condone behaviour that victims experience as degrading. We are clear in our commitment to toleration in that:

acting tolerantly implies that our actions – even in the face of unreasonable and belligerent confrontation – are never devoid of judicious discernment and non-coercion of others in accepting our reasons as the only moral authority. (Waghid and Davids 2017)

The essential challenge in deciding how to adhere to that position involves tackling a fundamental philosophical issue:

If toleration always implies a drawing of the limits against the intolerant and intolerable, and if every such drawing of a limit is itself (more or less) intolerant, arbitrary act, toleration ends as soon as it begins – as soon as it is defined by an arbitrary boundary between us and the ‘intolerant’ and ‘intolerable’. This paradox can only be overcome if we distinguish between two notions of ‘intolerance’ that the deconstructivist critique conflates: the intolerance of those who lie beyond the limits of toleration because they deny toleration as a norm in the first place, and the lack of tolerance of those who do not want to tolerate a denial of the norm. Tolerance can only be a virtue if this distinction can be made, and it presupposes that the limits of toleration can be drawn in a non-arbitrary, justifiable way. ... toleration is a normatively dependent concept .. in itself toleration is not a virtue or value; it can only be a value if backed by the right normative reasons (Forst, 2012)

The above gives an indication of the scale of the task in approaching challenging issues on campuses in a way that does not undermine the university as a site for knowledge creation and democratic deliberation. Given that we need to do more than assert the value of toleration and the aspects of it that require attention and elaboration, but we also need to develop those “right normative reasons” to which Forst has referred.

The relationship between the characterization of toleration and education

We have asserted that an absence of intervention or simplistic action derived from moral certainty is not acceptable. We have suggested instead that toleration is a key touchstone for enhanced understanding and action. We have drawn attention to four key issues regarding the clarification of toleration. We now need to focus more precisely on how these things apply to education.

We argue that one of – perhaps the principal – purposes of HE is to pursue truth. This is clearly an academic position, but it is also obviously not without societal implications. This interaction between the intellectual and political allows us, through the lens of toleration, to facilitate the development of a socially just and educationally valid position in the face of significant challenge. The complexities of establishing truth in a context which is not fixed, and is as emotional as it is cognitive requires careful positioning. Bevir's doubts about the ability of historians to identify a fixed past is useful in our considerations of both the Prevent duty and lad culture in universities in that it allows us to focus on the principles and procedures as well as simple fixed conclusions:

Objective interpretations are those which best meet rational criteria of accuracy, comprehensiveness, consistency, progressiveness, fruitfulness, and openness. Finally, the nature of our being in the world is shown to give us a good reason to regard such objective interpretations as moving towards truth understood as a regulative ideal. (Bevir 1994, p.328).

Consideration of these matters allows us to go some way towards an approach based on toleration that is normatively dependent. Bevir's "regulative ideal" needs to be translated into practice, and through those objective criteria we have the basis for a reasoned case against those who abuse the freedom of expression and action that exists on HE campuses. We need to pay attention to general educational strategies that are congruent with a decent HE environment. There may be specific approaches to learning, including assessment for as well as of learning; focusing on an ethos or 'climate' that is open and inclusive; and supporting a range of contributions that involve cognitive and affective perspectives and include active engagement in social and political contexts.

Both from students' and educators' perspectives, HE is very different from those years at school that are mandatory. But the economic imperatives experienced by universities that may lead some to position students as customers without intellectual or social and political commitments and responsibilities, may only assist the development of the same (or, an emphasised form) of undesirable views and/or actions that may be seen in schools. The combination of insecurity and aggressive assertion may be fuelled by negatively competitive contexts and practices. The development of toleration through an approach to learning that is respectful and reflective rather than competitive and exclusive may do a good deal in the realisation of reasonableness in universities.

This issue of HE pedagogy is obviously relevant to challenges on campuses. The need to engage in discussion and debate and encourage a multiplicity of routes through to the 'answer' is immediately obvious in subjects such as maths but also obviously applies to areas in which there are various acceptable interpretations. There is also great value for learning through an exploration of what is wrong. Considerations of why some people, for example, believe in creationism or why people in the past acted in ways that to us seem irrational (e.g., reactions to allegations of witchcraft) are useful not so that we can make simple declarations of error but rather in promoting understanding of how positions are established. There is more to consider than in punishing those who have offended. This sort of proposal does not mean that we need to engage in the precise details of how many seminars on which topics need to be devoted at which points for designated groups. It does suggest that there are principles and strategies that are congruent with toleration that allow for a normatively dependent approach to counter the challenges that we are considering.

Further, the university community should not be unhelpfully divided into social and academic zones. Lack of regulation in one or the other or unhelpfully restrictive practice in either is unlikely to help. Rather, there is a need for the creation of an academic community that is sufficiently self-confident to discuss challenging issues and to act with toleration.

Conclusion

Challenges on HE campuses will not be tackled by simplistic moral certainty which would work against HE as centres of learning, or through an absence of intervention which would unhelpfully accentuate existing neo-liberal trends on university campuses where students are customers and staff are providers of services. The key way in which to achieve a more reasonable and decent HE environment is to enhance our understanding of - and practice for - toleration. We see toleration as a normatively dependent concept, and this means we need to adopt a particular approach to education. The commitment to academic excellence and positive social interaction means that we need to understand toleration as being about the self, that it crosses the public-private interface and requires action in ways that recognize the limits to and potential paradoxes of toleration. The form of toleration that is built on this understanding means a recognition of commitment by those in HE to objective criteria for academic work that is framed within general strategies and pedagogical procedures that allow for toleration to flourish. Bejan's (2017) useful discussion of the need for 'mere civility' allows us to reflect on the need for robust forms of interchange. We need a form of toleration that is intellectually rigorous and requires social and political awareness: a denial of one or both by neglecting to act, or through simplistic moralising will not be appropriate for the democratic deliberations that are necessary in universities.

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